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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,146

01/28/2004

Guerino G. Sacripante

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03/05/2009

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EXAMINER

MC CULLEY, MEGAN CASSANDRA

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

03/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction27074@oliff.com

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Office Action Summary

Application No.

10/765,146

Applicant(s)

SACRIPANTE ET AL.

Examiner

Megan McCulley

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-7, 10, 11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-7, 10, 11, 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-7, 21, 33, 34 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al. (US 2002/0107306).

Regarding claim 1: Wang et al. discloses a method of making a powder comprising aggregating/dispersing in an aqueous dispersion epoxy resin particles (para. 10), coalescing the particles (para. 41), adding a crosslinking agent with amino functional groups (para. 22) and removing/drying the particle dispersion (para. 26).

Regarding claim 3: Wang et al. teaches epoxy resins (para. 10).

Regarding claims 5 and 6: Wang et al. teaches adding a pigment to the dispersion (para. 25).

Regarding claim 7: Wang et al. teaches a curing agent/crosslinking agent (para. 24).

Regarding claim 21: Wang et al. teaches epoxy resins (para. 10).

Regarding claim 33: Wang et al. teaches operating at a temperature above the glass transition temperature (para. 10 and 14).

Regarding claim 34: Wang et al. teaches at least 50% by weight of the epoxy resin (para. 10).

Regarding claim 37: Wang et al. teaches a styrene acrylate resin (para. 21)

Claims 10, 11, 13-16, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al. (US 2002/0107306).

Regarding claims 10, 11: Wang et al. discloses a method of making a powder comprising aggregating/dispersing in an aqueous dispersion epoxy resin particles (para. 10), adding a crosslinking agent with amino functional groups (para. 22) to the dispersion, coalescing the particles (para. 41), and removing/drying the particle dispersion (para. 26).

Regarding claims 13 and 14: Wang et al. teaches adding a pigment to the dispersion (para. 25).

Regarding claim 15: The method of disclosed in Wang et al. makes the powder particles (abstract).

Regarding claim 16: Wang et al. teaches the particles have a size of less than 5 microns (para. 41).

Regarding claims 22, 23: Wang et al. teaches epoxy resins (para. 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 2002/0107306) as applied to claim 1 above and in further view of Davydov et al. (U.S. Pat. 6,491,973).

Regarding claims 30 and 31: Wang et al. teaches the basic process as set forth above. Not disclosed is dry-blending the fused particles with at least one additive. However, Davydov et al. teaches dry-mixing/dry-blending particles with additives such as filler (col. 2 lines 26-31). Wang et al. and Davydov et al. are analogous art because they are both concerned with the same field of endeavor, namely resin particles for coating metal substrates. At the time of the invention a person having ordinary skill in the art would have found it obvious to combine the dry-mixing technique of Davydov et al. with the process of Wang et al. and would have been motivated to do so for such desirable properties as a more homogenous coating composition.

Claims 32, 36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 2002/0107306) as applied to claims 1 and 7 above and in further view of Patel et al. (U.S. Pat. 6,210,853).

Regarding claim 32: Wang et al. teaches the basic claimed composition as set forth above. Not disclosed is aggregating at a temperature below the glass transition temperature. However, Patel et al. teaches heating to a temperature below the T_g of the resin to aggregate the particles (col. 4 lines 19-21). Wang et al. and Patel et al. are analogous art since they are both concerned with the same field of endeavor, namely making particles in an aqueous dispersion. At the time of the invention a person having ordinary skill in the art would have found it obvious to combine the temperature of Patel et al. with the method of Wang et al. and would have been motivated to do so for such desirable properties as lowering the cost of production by not raising the temperature very high.

Regarding claim 36: Wang et al. does not teach the geometric size distribution. However, Patel et al. teaches a geometric size distribution, GSD, from 1.15-1.24 (col. 4 line 63), which overlaps the claimed range. At the time of the invention a person having ordinary skill in the art would have found it obvious to combine the GSD of Patel et al. with the method of Wang et al. and would have been motivated to do so since Wang et al. suggests a narrow size distribution is achieved (para. 13).

Regarding claim 38: Wang et al. does not teach the specific colors of the pigments. However, Patel et al. teaches cyan, magenta and yellow pigments (col. 11 line 54). At the time of the invention a person having ordinary skill in the art would have

found it obvious to combine the color of Patel et al. with the method of Wang et al. and would have been motivated to do so for the desired finished coating color.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 2002/0107306) as applied to claims 1 and 7 above and in further view of Sacripante et al. (U.S. Pat. 5,989,629).

Regarding claim 35: Wang et al. teaches the basic claimed method as set forth above. Not disclosed is the amount of the colorant. However, Sacripante et al. teaches a polyester resin in an amount of 75-95 percent and from about 5-25 percent of titanium oxide, which is a colorant (col. 7 lines 8-14), which overlaps the claimed ranges. Wang et al. and Sacripante et al. are analogous art since they are both concerned with the same field of endeavor, namely making resin particles in aqueous dispersions. At the time of the invention a person having ordinary skill in the art would have found it obvious to combine the amount of colorant of Sacripante et al. in the method of Wang et al. and would have been motivated to do so for such desirable properties as a sufficiently colored coating material.

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 5-7, 10, 11, 13-16 have been considered but are moot in view of the new ground(s) of rejection.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Megan McCulley whose telephone number is (571)270-3292. The examiner can normally be reached on Monday - Friday 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/M. M./
Examiner, Art Unit 1796